



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,709	01/05/2001	Ray Jimenez	IPA-003	5178

7590

07/13/2004

Alfred L. Browne, III  
Browne Rosedale & Lanouette  
100 Brickstone Square, 1st Floor  
Andover, MA 01810

EXAMINER

MURPHY, RHONDA L.

ART UNIT	PAPER NUMBER
----------	--------------

2667

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/755,709

Applicant(s)

JIMENEZ ET AL.

Examiner

Rhonda L. Murphy

Art Unit

2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-20 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01-05-01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.3.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informality: Line 16 of page 11 refers to a buffer designated as 150b. Figures 3a and 3c of the drawings show a buffer as 150a. It is suggested to change "150b" in the specification to read "150a".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berstis (US 6,718,015), in view of O'Neal (US 6,411,685).

**Regarding claim 1**, Berstis teaches a method for establishing a telephone call with a user of an audio web telephone system using a telephony device (col. 2, lines 5-9); processing a command from the user to enable the user to retrieve an audio signal accessible to the audio web telephone system via an IP network (col. 4, lines 22-23, 35-37); providing the audio signal to the user via the telephony device (col. 5, lines 28-31); receiving a request from the user to forward an audio message, the audio message at least a part of the audio signal (col. 6, lines 31-34; the user is capable of forwarding the

audio message via various delivery methods and the audio message being a part of the audio signal).

Berstis fails to teach the following limitations taught by O'Neal: storing the audio message in a buffer location (col. 8, lines 53-56); creating a reference pointer to the buffer location (col. 8, lines 66-67); receiving from the user at least one address for a recipient (col. 9, lines 3-5); and forwarding the reference pointer to the address of the recipient (col. 9, lines 11-13).

In view of this, having the method of Berstis and then given the teachings of O'Neal, it would have been obvious to one having ordinary skill in the art at the time the invention was made, to incorporate Berstis' method of forwarding an audio message to a recipient, with O'Neal's method of forwarding a message utilizing a buffer, reference pointer and recipient address. The motivation to combine the teaching is to enable the user to designate the location in which the message is received.

**Regarding claim 9**, Berstis teaches a method for receiving at least one address of a recipient from the subscriber (col.5, lines 47-49) and forwarding the audio message to the address of the recipient (col. 5, lines 28-31; col. 8, lines 59-61).

**Regarding claims 2 and 3**, the combined method of Berstis and O'Neal teaches all aspects of the claimed invention set forth in the rejection of claim1, and O'Neal teaches receiving an introductory message from the user (col. 8, lines 45-49); and adding the introductory message from the user to the buffer location (col. 8, lines 50-56). O'Neal further teaches storing the introductory message in a second buffer location (col. 8, 56-58); creating a second reference pointer to the second location (col. 8, lines 66-67); and

forwarding the second reference pointer to the address of the recipient (col. 9, lines 11-13).

**Regarding claims 4 and 11**, the combined method of Berstis and O'Neal teaches all aspects of the claimed invention set forth in the rejection of claim 1, and Berstis' method of claim 9 as described above. Berstis further teaches a method wherein the address of the recipient is an electronic mail message ("email") address (col.5, lines 47-49).

**Regarding claims 5 and 12**, the combined method of Berstis and O'Neal teaches all aspects of the claimed invention set forth in the rejection of claim 1, and Berstis' method of claim 9 as described above. Berstis further teaches a method wherein the address of the recipient is a phone number (col.5, lines 40-42).

**Regarding claim 6**, the combined method of Berstis and O'Neal teaches all aspects of the claimed invention set forth in the rejection of claim 5 as described above and Berstis further teaches a method verifying that the recipient is a subscriber to a short message service (col. 4, lines 25-29); and creating a phone number pointer to the audio message (col. 5, lines 40-42); and forwarding the phone number pointer to the short message service of the recipient (col. 5, lines 42-43, 46-47).

**Regarding claims 7 and 13**, the combined method of Berstis and O'Neal teaches all aspects of the claimed invention set forth in the rejection of claim 1, and Berstis' method of claim 9 as described above. Berstis further teaches the user originating a phone call to the audio web telephone system (col. 2, lines 5-9).

**Regarding claims 8 and 14**, the combined method of Berstis and O'Neal teaches all aspects of the claimed invention set forth in the rejection of claim 1, and Berstis' method

of claim 9 as described above. O'Neal further teaches the audio web telephone system originating a phone call to the user (col. 2, lines 12-19).

**Regarding claim 10**, Berstis teaches the method according to claim 9 and further teaches receiving an introductory message from the user (col. 4, lines 41-43); and adding the introductory message to the audio message forwarded to the recipient (col. 4, lines 57-64).

#### ***Allowable Subject Matter***

4. **Claims 15-20** are allowed. Prior art does not show an audio web telephone system for forwarding an audio message to a recipient utilizing a VXML browser configured to (a) execute a dialog retrieving a recipient's address to forward an audio message and to (b) generate a second audio signal in response to processing Voice XML code within the dialog.

#### ***Conclusion***


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited: US Patent 6,600,736 Ball et al., US Patent 6,393,107 Ball et al. and US Patent 5,915,001 Uppaluru.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda L Murphy whose telephone number is (703) 308-9557. The examiner can normally be reached Monday - Friday, between 8:00 – 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (703) 305-4798. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rlm

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600 7/8/01